

NORTHERN TERRITORY RACING COMMISSION

Consultation Paper

Code of Practice to Reduce Gambling Harms

10 August 2022

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Introduction

The Northern Territory Racing Commission (NTRC) invites your written comments on this consultation paper.

Comments are due by **Wednesday, 21 September 2022** and should be sent to racing.commission@nt.gov.au

Confidentiality: Your responses may be made public by the NTRC. If you do not wish for all or any part of your response or name to be made public, please state this clearly in the response.

Overview

The Northern Territory Code of Practice for Responsible Service of Online Gambling 2019 (the 2019 Code) came into effect on 26 May 2019 and currently provides guidance to wagering service providers (WSPs) licensed by the NTRC on responsible gambling practices required to be implemented by WSPs so as to reduce the harm that may be caused by online gambling.

The 2019 Code details that it will be subject to regular reviews which are to take into account new operating practices, effectiveness of existing measures, changes in technology, research and study of gambling in Australia and overseas, changes to the National Consumer Protection Framework (NCPF) and other pertinent circumstances.

The NTRC has determined that it is now an appropriate time for a review of the 2019 Code to be undertaken in order to bring into effect:

- strengthened requirements on WSPs to identify users of their wagering services who are at risk of harm and to take effective and timely action as a result;
- strengthened requirements on WSPs on reducing gambling harms through the provision of a responsible gambling environment; and
- implementation of a number of remaining consumer protection measures agreed to by Commonwealth, State and Territory Governments through the NCPF in relation to standardised activity statements and the National Self-Exclusion Register.

The aim of the new Code of Practice is not to reduce harm at all costs but to strengthen consumer protections to ensure that gambling activity does not evolve from enjoyable entertainment to addiction. In developing the new Code of Practice, the NTRC considers that it is important that users of WSPs are protected against excessive gambling and are helped to reduce their gambling when there is reason to do so. In doing so, it is important to ensure that we find the right balance between allowing users the freedom of choice in relation to their gambling activities; the need for users to take responsibility for their own actions; and ensuring that there are appropriate and tailored safeguards in place to reduce gambling activity that may cause harm.

The NTRC is aware of and will take into consideration in its development of the new Code of Practice that some measures in the 2019 Code and some of the strategies that are being considered for implementation during its review may impose requirements on WSPs that are at a higher level than the minimum consumer protection measures agreed to nationally through the NCPF. Where this may be the case, the NTRC will weigh the desire of WSPs licensed in the Northern Territory for nationally consistent consumer protection measures against the need for WSPs to be required to act early and quickly to stop or to prevent gambling harms from occurring, so as to ensure that the Northern Territory remains an agile, innovative and well-regulated environment in which to conduct interactive gambling operations.

Priority Areas

The six priority areas that the NTRC proposes to focus on during its review of the 2019 Code are:

1. Identifying Harmful Gambling Activity
2. Interaction with Users Identified at Risk
3. Restrictions and Access Limitations
4. Inducements and Marketing Activities
5. Information for Customers
6. Training for WSP Employees

Priority Area 1: Identifying Harmful Gambling Activity

The NTRC expects all WSPs to maintain a consistently high level of protection for users of their online gambling services. While the NTRC recognises that not all online gambling users who are experiencing harm associated with their gambling activity will be able to be immediately identified by a WSP, the NTRC does expect that WSPs will have practices in place that support the prevention of harm and that are focused on user interests as against the potential revenue that may be realised from those users.

Given the now widespread availability and ease of access to online gambling through smartphones and personal computers coupled with little to no personal contact being required between the user and the WSP, users can quickly lose large amounts of money and/or their gambling activity can quickly evolve from entertainment to addiction.

Advances in technology however, also provide unprecedented opportunities for WSPs to not only tailor users' gambling experiences through the monitoring of user behaviours (such as betting and browsing activity, deposit and withdrawal activity and responses to offers and promotions) but to also monitor user behaviours for responsible gambling decision making purposes. In doing so, the WSP should be able to quickly identify users who may be at risk and having done so, effectively engage with those users with an expected outcome being the minimisation of the harm that they may experience.

CONSULTATION QUESTION 1

What specific range of indicators (including any appropriate thresholds) should WSPs regularly monitor, to identify gambling harm?

CONSULTATION QUESTION 2

In what circumstances should WSPs be required to undertake mandatory affordability assessments of their users to ensure the user is gambling with money they can afford to lose without experiencing harm?

CONSULTATION QUESTION 3

In what way should WSPs increase the monitoring of high value users (i.e. users that receive a higher level of customer service unavailable to the WSP's wider customer base) to ensure the high value user is gambling with money they can afford to lose without experiencing harm?

Priority Area 2: Interaction with Users Identified at Risk

It is important that the adverse impacts of gambling are taken seriously and that WSPs have in place effective processes to interact with users who may be harmed by gambling. As soon as a WSP identifies that a user may be at risk of harm due to their gambling activities, the NTRC expects that the WSP will interact with the user in a way that will minimise that risk. Interaction must occur quickly and be proportionate to the risk identified, with the aim of the interaction being to assist the user to moderate their gambling activity where there is reason to do so.

The NTRC expects that WSPs will have written procedures in place for contact with users in cases where risk of harm due to gambling activities is suspected or identified. The interaction should be designed in a way that encourages the user to reflect on their gambling behaviour and to take action to moderate that behaviour. If a user does not respond to such contact from the WSP, the WSP must escalate its efforts to interact with the user to the next level.

It is also important that a WSP implements processes by which it evaluates its interactions so that it can determine whether the interaction has had the desired impact, and whether any follow-up action is needed.

CONSULTATION QUESTION 4

What processes should WSPs have in place to interact with a user who has been identified as being at risk of harm in order to help that user moderate their gambling behaviours?

CONSULTATION QUESTION 5

Should WSPs also be required to have processes in place that enable the WSP to effectively interact with users identified as being at risk of harm in real-time including those WSPs who provide access to their gambling services twenty-four hours a day, seven days a week (24/7)?

CONSULTATION QUESTION 6

What responsible gambling management tools (particularly any tools not already mandated in the 2019 Code) should be made available to WSP users?

Priority Area 3: Restrictions and Access Limitations

Of continuing interest to the NTRC is the ever evolving concept of responsible gambling as a collective responsibility shared between the individual gambler, the gambling industry and the gambling regulator. As initially espoused by academic B.J. Bernhard over 15 years ago, this concept tends to take a departure from the historical tendency to solely place the blame for harms caused by gambling on the individual gambler.

This increased focus on reducing gambling harms through the provision of a responsible gambling environment is occurring worldwide. Regulators, academics and the industry itself are continually examining methods such as affordability assessments for all users before they begin gambling, putting in place spend limits and banning all advertising to encourage sensible spending on gambling and to ensure that gambling activity remains an enjoyable and safe form of entertainment.

In 2020, the Belgium Gambling Commission introduced a mandatory weekly deposit limit of €500 per week per player (aggregated over all Belgium gambling operators). This deposit limit must be reduced immediately upon request by a user however, the limit may only be raised on specific request of the user, which must then be approved by the Belgium Gaming Commission before it can be implemented.

In 2021, Flutter Entertainment (responsible for the Paddy Power and Betfair brands in the United Kingdom and Ireland) announced that it intended to impose a €583 maximum monthly deposit limit for its United Kingdom and Ireland customers under the age of 25. The reasoning being that customers under the age of 25 are usually experiencing a number of life changes such as moving out of the family home and being responsible for their own finances for the first time. The restriction can be removed if a customer can demonstrate that they have sufficient income to sustain an increased level of spend.

As part of the harm minimisation measures of the NCPF, users who are experiencing gambling harm will be able to exclude themselves from all interactive WSPs nationwide by using an online registration process that will be administered by the Australian Communications and Media Authority (ACMA). The new Code of Practice will strengthen the current self-exclusion requirements currently existing in the 2019 Code and reflect the new National Self Exclusion Register which is scheduled to come into operation in 2022.

CONSULTATION QUESTION 7

In what circumstances is it appropriate for a WSP to take action on behalf of a user (e.g., imposing spend or deposit limits, temporary suspension or closure of accounts)?

CONSULTATION QUESTION 8

Should the ability for a user to cancel a withdrawal request before it is processed by the WSP be banned?

CONSULTATION QUESTION 9

Should credit cards (including e-wallets funded by credit card) and/or other 'buy now, pay later' products be banned as a deposit payment method?

CONSULTATION QUESTION 10

Should the setting of a maximum deposit limit per week for all users and/or users under 25 years of age (that can only be raised upon request by the user and following an assessment as to affordability of the new limit) be mandated?

If so, what should those deposit limits be?

CONSULTATION QUESTION 11

What other restrictions and access limitations should be considered?

Priority Area 4: Inducements and Marketing Activities

Provision of gambling services is a competitive (and often lucrative) industry. The NTRC is conscious of the fact that as is the case in most industries, marketing by WSPs of their brand and associated products is essential to survive and prosper in this dynamic and highly competitive market environment. However, the NTRC is also very cognisant of the fact that some marketing activities may have a harmful impact on vulnerable users of gambling services, including young people, problem gamblers and those at risk of becoming a problem gambler.

The NTRC considers that it is vitally important that a regulatory environment exists that not only facilitates an economically viable industry but also a socially responsible one. Given this, it is crucial to find an appropriate balance between marketing strategies that encourage people to gamble and/or gamble more frequently (including the offering of inducements) and the needs of the WSP to promote their services.

Wagering inducements are often referred to as incentives to bet that are given to gamblers (such as but not limited to bonus bets, bonus cash, match deposit or stake offers, refund/stake back offers and/or bonus or better odds) that are distinct from the core gambling product on offer and are designed to boost sales and generate loyalty. The 2019 Code does not contain a definition of an inducement however, does make reference to 'any credit, voucher or reward'.

Marketing activities including advertisements and the offering of inducements need to be undertaken in a responsible way and in a manner that lessens the possibility of a person experiencing harm from their gambling activity. In this respect, the NTRC notes that both the New South Wales and South Australia gambling regulators currently prohibit the advertisement in their respective states, of any offer of an inducement to participate in any gambling activity, including an inducement to bet more frequently whereas other Australian gambling regulators have not taken this step. Recent developments in the United Kingdom are also seeing the introduction of regulations later this year that prohibit advertisements that are likely to be of strong appeal to children or young persons, which is most likely to result in the use of high profile soccer players, celebrities and social media influencers being banned for gambling advertisements.

While the 2019 Code prohibits the offering of an inducement to a person to open a betting account or to refer another person to open a betting account, the NTRC does not currently enforce this provision in respect of inducements which are published on media platforms that exclusively provide racing content as it understands that racing media platforms are generally viewed by people who take an interest in racing and do so to wager. The NTRC notes that while several jurisdictions in Australia also limit compliance and enforcement action on marketing activities published on racing media platforms, in some cases this does not extend to advertisements that aim to entice people to open a betting account.

CONSULTATION QUESTION 12

Should the direct or universal advertising of an inducement by a WSP to participate, or participate frequently in gambling activity be banned?

CONSULTATION QUESTION 13

Should the offering of inducements and/or other direct marketing activities (including recruitment to high value customer/VIP schemes) be banned for WSP users:

- (a) identified by the WSP as being at risk of harm;
- (b) who have not logged into their betting account in the last 12 months;
- (c) who are under 25 years of age; and/or
- (d) who have an account balance of \$10 or less and who have not logged into their betting account for the last three months?

CONSULTATION QUESTION 14

Should the new Code of Practice include a definition of inducements and if so, should it explicitly include not just financially based inducements but also complimentary gambling products?

CONSULTATION QUESTION 15

Should the exemption in respect of inducements aimed to entice people to open a betting account that are published on media platforms that exclusively provide racing content be retained?

Priority Area 5: Information for Customers

As part of the harm minimisation measures of the NCPF, WSPs are being required to provide their users with more meaningful activity statements in order that they may easily track and monitor their wagering spend, wins and losses. The new Code of Practice will see strengthened requirements for user activity statements including that activity statements must be provided to an active user on a monthly basis (within seven days after the end of the month); not be provided if the user has had no wagering activity within the statement period; and be accessible by a user immediately online through their wagering account and within 14 days from a request via email or telephone. A best practice prototype of an activity statement has been developed by Commonwealth, State and Territory Governments that specifies the text colour that is required to be used for transactions being red for losses and black for wins and that the use of green coloured text is to be prohibited.

In 2019, the Denmark Online Gaming Association which is the trade association for online gambling in Denmark, developed a code of conduct for WSPs in the Danish market that is aimed at strengthening consumer protection and lowering the risk from gambling harms. One of the measures in that Code includes a requirement for pop-up windows to be used to inform users as to how long they have been gambling and how much money they have spent. The user must acknowledge they have read the message by clicking either to continue gambling or to stop gambling.

Another requirement in the regulatory environment in Denmark specific to online casinos is that the Danish Gambling Authority requires that a player must be able to view the time spent on gambling. A clock must be visible to the player at all times and must not be based on the player's equipment nor can it be possible to remove the clock or scroll away from it. The clock must indicate the player's time consumption per log-on session and means that an ordinary clock to indicate time will not suffice. This requirement is not dissimilar to the current requirements for licensed premises in the Northern Territory that house gaming machines where clocks are to be visible so that gamblers are more likely to be aware of the passage of time.

The 2019 Code mandates a number of requirements that must be adhered to in relation to a WSPs terms and conditions. The NTRC wrote to all licensees in late 2021, emphasising that WSPs must offer fair and transparent terms and conditions to their users so that users are empowered to make informed choices about their gambling, and that the information about their rights is correct, easily available and clear. These strengthened requirements will be incorporated into the new Code of Practice.

CONSULTATION QUESTION 16

Should the NTRC implement similar measures as have been adopted in Denmark in relation to pop-up windows detailing the time gambled and money spent; and permanently displayed clocks that detail the user's time consumption per log-on session?

CONSULTATION QUESTION 17

In addition to measures contained in the 2019 Code and those that will be implemented regarding activity statements through the NCPF, what additional information should be easily available to users?

Priority Area 6: Training for WSP Employees

The 2019 Code mandates that all new staff, engaged in customer interaction, must complete appropriate responsible gambling training within one month of commencing employment with a WSP. The training undertaken is to include identifying problem gambling behaviours; information on the WSP's gambling products including its terms and conditions; and the WSP's self-exclusion processes.

The NCPF details a similar measure with the addition that the training requirement is to apply to not only those staff engaged in customer interaction but to those employees who also have the capacity to influence the wagering service. To this end, the Commonwealth Government is currently developing a national online training program.

CONSULTATION QUESTION 18

Should all new staff engaged in customer interaction be required to successfully complete responsible gambling training prior to engaging with customers?

CONSULTATION QUESTION 19

What other measures can be introduced for WSP employees to be up-skilled in identifying and intervening with WSP users at risk?

Anything else?

Is there anything else you would like to tell us about the current 2019 Code such as ambiguous clauses, a lack of clarity or simply areas that you consider to be outdated?

Is there anything else you would like to tell us about preventing and minimising gambling harm more generally that the NTRC should consider incorporating into the new Code of Practice?